

PUBLIC MEETING MINUTES

April 6, 2006

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95814

Chairman Duncan called the meeting to order at 10:05 a.m.

Members Present

John C. Duncan, Chairman
Lilian S. Shek, Member
Sally M. McKeag, Member
Karen Neuwald, Member

Staff Present

Bob Thompson, General Counsel
Fred D'Orazio, Chief Administrative Law Judge
Les Chisholm, Regional Director
Eileen Potter, Chief Administrative Officer (excused)

Call to Order

Chairman Duncan called the Board to order for the continuous open session of the February 9, 2006, Board meeting. He reported that the Board met in continuous closed session to deliberate on cases pending on the Board's docket.

Since that open session in February, the Board has issued PERB Decision Nos. 1816-M, 1817-H, 1818-H, 1819-H, 1820-H, 1821-H, 1822, 1823-H, 1824-M, 1825-M, 1826-S, 1827, 1828, 1829-H, 1830-H, 1831-H, 1832-H, and Administrative Appeals Nos. Ad-351-H and Ad-352. A document containing a listing of the aforementioned decisions was made available at today's meeting.

Motion: Motion by Member Shek and seconded by Member Neuwald to close the February 9, 2006, public meeting.

Ayes: Duncan, Shek, McKeag and Neuwald.

Motion Carried.

Chairman Duncan opened the meeting of April 6, 2006 and Member McKeag led in the Pledge of Allegiance to the Flag.

Minutes

Motion: Motion by Member McKeag and seconded by Member Neuwald that the Board adopt the minutes of the Public Meeting of PERB for February 9, 2006.

Ayes: Duncan, Shek, McKeag and Neuwald.

Motion Carried.

Comments From Public Participants

None.

Staff Reports

a. Administrative Report

In Chief Administrative Officer Eileen Potter's absence, Chairman Duncan gave the following administrative report: 1) The next PERB Advisory Committee meeting is scheduled on Thursday, June 1, 2006 and will be held in the Sacramento Headquarters Office; 2) Chief Administrative Law Judge Fred D'Orazio will be chairing and coordinating PERB's 30th Anniversary Conference. The conference is scheduled on September 14, 2006; 3) The PERB budget passed out of the Senate Budget and Fiscal Review, Subcommittee 4 on March 22, 2006. A hearing is set on the consent calendar of the Assembly Budget and Fiscal Review, Subcommittee 4 on April 18, 2006; 4) PERB is currently administering an administrative law judge (ALJ) II exam and Chairman Duncan requested Mr. D'Orazio to elaborate further on the subject during his staff report; 5) The PERB Legal Counsel positions were reclassified to Staff Counsel positions to allow for greater upward mobility in the legal division, 6) The Staff Counsel IV allocation was approved by the Department of Personnel Administration and PERB will be proceeding with an exam; 7) The PERB on-line filing process is underway, pending final approval from the Office of Administrative Law; and 8) On April 10, 2006 PERB will begin maintenance work on replacing the tile and carpet in the PERB Headquarters Office. The work will commence each day after 5:00 p.m., with minor inconveniences to the PERB staff.

b. Legal Report

General Counsel Bob Thompson reported that the regional attorney and litigation reports were distributed to the Board for their review. With respect to litigation, PERB filed a brief with the National Labor Relations Board in Washington, D.C. relating to the Regional Director's decision in Los Angeles Leadership Academy and Los Angeles Leadership

Academy Community United, PERB Case No. LA-RR-1123-E, NLRB Case No. 31-RM-1281. PERB also participated in a hearing and is preparing a post hearing brief for the Richmond, California charter school case, Leadership Public Schools, Inc. and California Federation of Teachers, AFL-CIO and California Public Employment Relations Board, Case No. 32-RM-800. With respect to Oakland Unified School District v. Public Employment Relations Board, Case No. A110794, PERB Decision No. 1770, PERB received a favorable denial of petition from the Court of Appeal in the First District Court. However, the District filed a petition for review with the Supreme Court and PERB will be submitting a brief as well.

Mr. Thompson reported that a letter was sent out to all interested parties announcing a workshop on PERB agency fee regulations. A staff draft of proposed revisions to PERB's agency fee regulations was also included in that mailing. The workshop is scheduled for Tuesday, May 16, 2006, 10:00 a.m., Room 103 at the PERB Headquarters Office in Sacramento. The meeting will be conducted by Mr. Thompson and he will open up the discussion to possible revisions to PERB's agency fee regulations and any other agency fee related issues that may arise.

Mr. Thompson also reported that an Executive Order regarding Public Records Requests was issued from the Governor's Office. In complying with the Executive Order, Robert Thompson, Les Chisholm and Bilenda Harris-Ritter attended a training session at the Labor Agency on April 5, 2006. As a result of the training, PERB will be preparing a booklet with guidelines, illustrating how a public records request is handled.

Mr. Thompson announced that Erin Koch-Goodman will be leaving the PERB General Counsel's Office and joining the Department of Fair Employment and Housing. He indicated that Ms. Koch-Goodman demonstrated great skill, the capability of settling cases in the mediation process, and skill also in writing appellate briefs. She was also very instrumental in convincing the Court to deny the District's Petition for Review in the case Oakland Unified School District v. Public Employment Relations Board, Case No. A110794, PERB Decision No. 1770. Mr. Thompson and the Board members commended Ms. Koch-Goodman on her diligent work and contributions to PERB and wished her well in her new endeavor.

In the case of Trustees of the California State University v. PERB and California Faculty Association, Case No. LA-CE-784-H, the Board issued a decision in February 2006. The case was appealed to the 2nd Appellate District Court and PERB requested additional time in which to file an administrative record. The University will have 35 days in which to file its opening brief, and 35 days thereafter, PERB will file its response.

Mr. Chisholm reported that since the last public meeting in February 2006, PERB had made extensive changes to the Conflict of Interest of Code set forth in Regulation 31100. The final changes took effect as of March 16, 2006. A package of PERB clean-up regulations, approved by the Board, is pending review by the Office of Administrative Law

(OAL), and should take effect some time in mid-May, 2006. Mr. Chisholm will keep the Board apprised of future developments from OAL.

Mr. D'Orazio reported that the administrative law judge (ALJ) report was distributed to the Board for review. Mr. D'Orazio reported that a planning committee composed of representatives from both the employer and union side as well as PERB staff will be meeting on June 1, 2006 to start planning PERB's 30th Year Anniversary Conference. The one-day conference will consist of four break-out panels covering the following subject matters: 1) charge processing, 2) settlement conferences, 3) hearings with administrative law judges and 4) appeals to the Board. The California Public Employee Reporter will be a co-sponsor of the conference with PERB.

Mr. D'Orazio also reported that he will be conducting an ALJ II exam. The application deadline ended on April 5, 2006 and interviews are set for April 27, 28 or 29.

c. Legislative Report

Regional Director Les Chisholm reported that the legislative report was distributed to the Board for their review. He reported that PERB is continuing to track Assembly Bill 146, a bill that would ratify a memorandum of understanding in State bargaining unit 2 (Attorneys). Mr. Chisholm is also tracking Senate Bill 1832 (Kehoe). SB 1832 would change the rules on what state and local agencies may charge with respect to production of public records and documents for members of the public. He will continue to track this bill and keep the Board apprised of future developments.

Motion: Motion by Member Shek and seconded by Member McKeag that the Administrative, Legal Reports (including General Counsel and Chief Administrative Law Judge) and Legislative Reports be received.

Ayes: Duncan, Shek, McKeag and Neuwald.

Motion Carried.

Old Business

None.

New Business

None.

General Discussion

There being no further business, the meeting is recessed to continuous closed session.

The Board will meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through June 8, 2006 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board.

Motion: Motion by Member Neuwald and seconded by Member McKeag that there being no further business, the meeting be recessed to continuous closed session.

Ayes: Duncan, Shek, McKeag and Neuwald.

Motion Carried.

Respectfully submitted,

Chris Wong, Executive Assistant

APPROVED AT THE PUBLIC MEETING OF:

John C. Duncan, Chairman